

THE STATE OF UTAH

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Memorandum for Office Study only, by E. J. SKEEN

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Authorities on the question of contempt:

The rule as to what the court may consider in a contempt proceeding arising out of the violation of an order or judgment of the court is stated in 13 Corpus Juris, Page 15, as follows:

"Since an order, judgment or decree of a court having jurisdiction of the parties and the subject matter cannot be collaterally attacked, but must be modified or vacated, if erroneous, by application to the court therefor, disobedience of an order made by the court within its jurisdiction and power is contempt, although the order may be clearly erroneous. Likewise, the fact that the order was improvidently granted or irregularly obtained will not excuse disobedience."

The following rule was quoted with approval by the Supreme Court of Utah, in the case of Utah Power and Light Company v. Richmond Irrigation Company, 13 Pacific (2d) 320, 324:

only "A party may question the order with which he is charged with refusing to obey only in so far as he can show it to be absolutely void. He cannot be heard to say that it is highly erroneous, however flagrant it may appear to be, since judgments of courts cannot be attacked collaterally for mere irregularities." 6 R.C.L. 505.

Defenses:

Errors and irregularities in the original proceedings constituted no defense to a subsequent proceeding for contempt based thereon. 13 Corpus Juris 43.

The fact that a contemner acted under the advice of counsel is no defense. 13 Corpus Juris 43, Note 18.

Ignorance of the law and want of intention cannot be urged as a defense. See also 56 Montana 578; 185 Pacific 1112; 100 Oregon 1; 196 Pacific 412.

EJS:s